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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA AT ANCHORAGE

UNITED STATES OF AMERICA for the  
use and benefit of DELTA WESTERN,  
INC., a Washington Corporation,

Plaintiff,

v.

BERKLEY INSURANCE COMPANY,

Defendant.

**COMPLAINT**

Case No. 3:15-cv-\_\_\_\_\_-\_\_\_\_-

The United States, for the use and benefit of Delta Western, Inc., (“U.S. ex rel. Delta Western”) alleges the following against Berkley Insurance Company (“Berkley”) as the issuer of a surety bond for Southwest Alaska Contractor’s, LLC (“SAC”):

**PARTIES**

1. Delta Western, Inc. (“Delta Western”) is a corporation incorporated in the State of Washington with its principal place of business in Washington.

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2. Berkley is a corporation organized under the laws of Delaware and having its principal place of business in Connecticut.

### **JURISDICTION**

1. The Federal District Court for the District of Alaska has jurisdiction pursuant to 28 U.S.C. § 1331 and is the appropriate venue pursuant to 40 U.S.C. § 3133(b)(3)(B).

### **STATEMENT OF FACTS**

2. As is relevant to this Complaint, SAC was awarded and undertook to perform at least two construction projects during the summer and fall of 2014 that required bonding under 40 U.S.C. § 3131.

3. The first involved remediation at the airport in King Salmon, Alaska (“King Salmon Project”) and was funded by the United States Air Force.

4. Berkley issued Payment Bond No. 0182829 in relation to the King Salmon Project.

5. The second involved Main Street improvements in Levelock, Alaska (“Levelock Project”) and was funded by the United States Department of Interior, Bureau of Indian Affairs – Alaska Region.

6. Berkley issued Payment Bond No. 0182828 as surety for the Levelock Project.

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7. Delta Western contracted to supply diesel and gasoline (“Fuel”) directly to SAC for its use in the King Salmon Project and the Levelock Project (“Projects”).

8. The last time that Delta Western supplied Fuel to SAC for the Projects was in December 2014, more-than 90-days and less-than one-year from the commencement of this action.

9. In spite of demands by Delta Western, SAC failed to make payment for the fuel supplied and delivered by Delta Western.

10. The amount owing to Delta Western for the Projects is the portion of \$450,202.06 attributable to the two projects, the exact amount to be established during discovery and proven at trial.

### **CLAIM**

11. U.S. ex rel. Delta Western re-alleges and incorporates Paragraphs 1-10 of this Complaint.

12. Delta Western contracted to furnish materials in the form of Fuel to SAC for the Projects.

13. Delta Western did in fact furnish materials in the form of Fuel to SAC for the Projects.

14. SAC breached its contractual requirements to Delta Western by not paying for the materials provided by Delta Western pursuant to the Contract.

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15. Berkley was SAC's surety for the Projects and issued payment bonds for the Projects pursuant to 40 U.S.C. § 3131.

16. Delta Western has not been paid during the 90-days following its last delivery of Fuel to SAC for the projects.

17. Less than one-year has elapsed since the last day Delta Western provided materials for the Projects.

U.S. ex rel. Delta Western requests the following relief:

1. Damages in an amount to be proven at trial, but in no event less than the portion of \$450,202.06 attributable to the two relevant projects.

2. Such fees and costs as are recoverable under the pertinent governing law.

3. Such other relief as the Court deems equitable and appropriate.

DATED: April 8, 2015

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